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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,056	11/20/2003	Koji Yamada	4041J-000812	9293

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EXAMINER

FORD, JOHN K

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/718,056	Applicant(s) YAMADA ET AL.	
	Examiner John K. Ford	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/20/2005
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 3-6, 9, 12, 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 8, 10, 11, 13 & 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/24/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/20/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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Applicant's response of December 20, 2005 has been studied carefully.

Applicant has elected the first species of Figure 1, wherein the recess houses a servo-motor and the sub-species of Figure 3, wherein the partition board is "stepped shaped". These elections were made without traverse and claims 1-3 and 7-11, 13, 14, 16 and 18 have been identified as readable on the elected species. The examiner disagrees with the inclusion of claims 3, 9, 14 and 16. Claim 3 and 14 specify that the recess contains either refrigerant piping or hot water piping. By disclosure, both of these alternative structures can be substituted for the servo-motor of the elected species and were clearly listed as alternative (second and third) species (of air conditioning device) in the previously sent election requirement (that was not traversed). Claims 9 and 16, to the extent that they depend from claims 3 and 14, respectively, also do not read on the elected species. Accordingly, claims 3-6, 9, 12 and 14-17 have been withdrawn and claims 1, 2, 7, 8, 10, 11, 13 and 18 are examined here.

Applicant has clarified that Figure 5 is not prior art to this application and it has not been considered as such by the Examiner.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

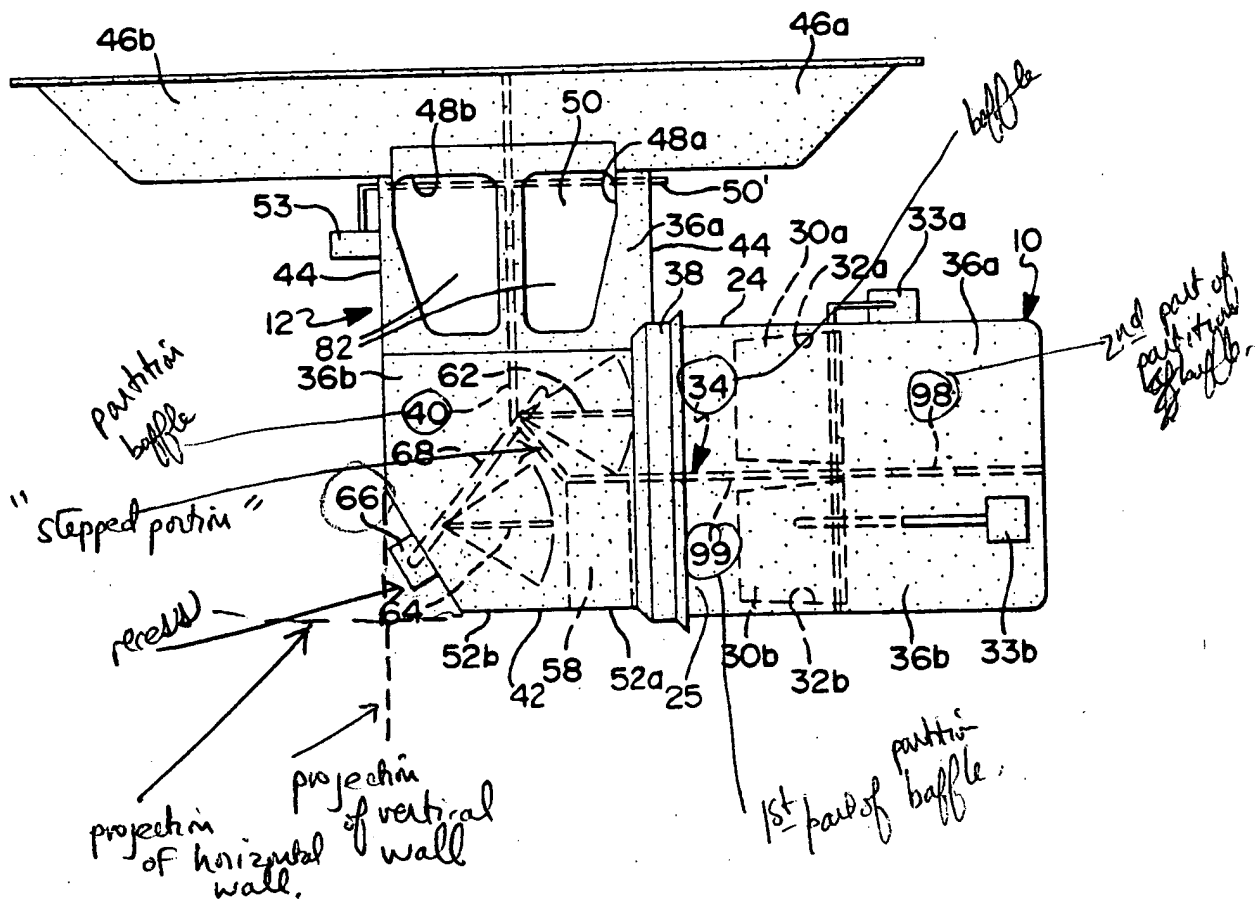
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7, 8, 10, 11, 13 and 18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kinmartin et al (USP 5,101,883).

In Kinmartin a door actuator 66 is located in a recess formed in the outer wall of the casing (note the diagonal wall that forms a triangularly shaped recess to the horizontal and vertical projections of the two walls that it spans). There is a corresponding "stepped shaped" deformation in the partition 40 that corresponds to the aforementioned recess. The cross-sectional area of the two air passages on either side of the partition (formed by walls 40 and 34) remains approximately equal as shown in the drawing Figures. Even if that were not the case, it is submitted that no one of ordinary skill in the art would have sized these cross-sections to not be approximately equal given that the passenger and driver require approximately the same amount of conditioned air. Regarding the "stepped shape" limitation no special definition has been given to this term in the specification. Interpreting it broadly, the examiner would argue that it diagonal wall of the partition in the casing that corresponds to the aforementioned recess is "stepped shaped" in the absence of any more precise definition.



The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Three Denso assigned patents of obvious relevance were turned up in the search (JP 9-39546, JP 11-189024 and JP 05-301515). Are there other Denso patents disclosing recesses in air conditioning ducts into which actuators or other air conditioning parts (e.g. hot water or refrigerant piping) are inserted, that the Examiner should be aware of? As well, as evidenced by the GB document cited by the examiner here, there appears to be parallel prosecution on-going overseas. Is there

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prior art, not yet of record here, that has been made of record in those foreign prosecutions? If so, please produce it in response to this office action.

Any inquiry concerning this communication should be directed to John K. Ford at telephone number 571-272-4911.

A handwritten signature in black ink, appearing to be 'John K. Ford', written in a cursive, stylized manner.

John K. Ford
Primary Examiner